

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

George Petkovic

Plaintiff,

Case No.:

-vs-

HON.

Dennis Kwapis

Defendant.

/

LAW OFFICE OF GEORGE T. FISHBACK, PLLC
GEORGE T. FISHBACK (P29763)
Attorney for Plaintiff
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COMPLAINT AND JURY DEMAND

Plaintiff George Petkovic, by his attorney, Law Office of George T. Fishback, PLLC, respectfully submits his Complaint as follows:

COUNT I

1. Plaintiff, George Petkovic, is a resident and citizen of the State of Illinois.
2. Defendant, Dennis Kwapis, is a resident and citizen of the State of Michigan.

3. That jurisdiction is based on Diversity of Citizenship, 28 U.S.C. §1332, as well as the Admiralty and General Maritime jurisdiction of this Court, 28 U.S.C. §1333, and an amount in controversy which is in excess of Seventy-five Thousand and no/100 (\$75,000.00) Dollars, exclusive of costs, interest and attorney fees.

4. That at all times relevant hereto, Defendant Kwapis was the owner and master of a 1999 29' Bravura Sportster sailboat, "Tsunami," which was used and offered as intended for use upon the navigable waters of Lake Michigan, and which Defendant Kwapis expressly invited Plaintiff, George Petkovic, to board and inspect.

5. That pursuant to common law, it became and was the duty of Defendant Kwapis to provide a seaworthy vessel; to make and keep safe his vessel and to provide Plaintiff with a reasonably safe vessel to board.

6. On or about August 30, 2018, while Plaintiff George Petkovic, was aboard the vessel, a fitting on the upper starboard lifeline failed, parted and/or gave way as a result of the negligence of Defendant Kwapis and the unseaworthiness of Defendant's vessel, thus causing Plaintiff to be severely injured as more fully set forth below.

7. Defendant Kwapis, was then and there guilty of one or more of the following negligent acts and/or omissions including, but not limited to:

- a) failing to keep, maintain and provide a vessel with in a reasonably safe condition;
- b) failing to keep, maintain and provide a vessel which was reasonably safe for invited guests, such as Plaintiff;
- c) failing to discover, inform and warn invitees, and Plaintiff, in particular, of the latent and/or patent defects and/or dangerous conditions then and there existing on said vessel;
- d) failing to correct such latent and/or patent defects and/or dangerous conditions which Defendant knew, or in the exercise of reasonable care should have known, presented an unreasonable risk of injury to invitees on the vessel;
- e) failing to eliminate unreasonably dangerous hazards on the vessel;
- f) failing to guard or otherwise prevent access and/or exposure to unreasonably dangerous hazards on the vessel;
- g) failing to warn of or otherwise alert invitees to the presence of unreasonably dangerous hazards on the vessel, that Defendant knew or in the exercise of ordinary care, should have known would not be readily apparent or observable by invitees.

8. As a direct result of such negligence, Plaintiff, George Petkovic, sustained permanent, painful and severe injuries, great physical pain and mental anguish, including but not limited to a fractured pelvis.

9. As a further result of said occurrence and of said injuries, Plaintiff George Petkovic, has become liable for and required to expend large sums of money for medical care and treatment and will continue to do so in the

future; has suffered great physical pain and mental anguish and will do so in the future; has been rendered disabled and unable to attend to his usual and ordinary affairs and will continue to do so in the future.

WHEREFORE, Plaintiff demands judgment against the Defendant in whatever amount to which he is found to be entitled, together with costs, interest and attorneys' fees.

COUNT II

1-9. Plaintiff repeats and realleges paragraph one (1) through nine (9) of Count I herein, as if set forth more specifically paragraph by paragraph.

10. That Defendant Kwapis, as the owner and master of the sailboat "Tsunami", expressly and/or impliedly warranted that his vessel was reasonably seaworthy and was fit for the uses, purposes and misuses either intended, anticipated or reasonably foreseeable, in accordance with the provisions of the General Admiralty and Maritime Law.

11. That more specifically, Defendant Kwapis expressly and impliedly warranted that his vessel was owned, maintained and/or operated so as not to subject persons, such as Plaintiff, George Petkovic, who was an invitee on said vessel, to unreasonable risks of harm and injury and that Defendant breached its warranty as a shipowner to provide a seaworthy vessel which was reasonably fit for the purposes for which it was intended in accordance

with General Admiralty and Maritime Law.

12. That Defendant Kwapis breached said warranties and failed to provide a seaworthy vessel by keeping and maintaining the defective lifeline fitting, which constituted a defective and unreasonably dangerous hazard, to remain in service on its vessel.

13. That as a direct and proximate result of Defendant Kwapis's breaches of warranties, Plaintiff, George Petkovic sustained permanent, painful and severe injuries, great physical pain and mental anguish, including but not limited to a fractured pelvis.

14. As a further result of said occurrence and of said injuries, Plaintiff, George Petkovic, has become liable for and required to expend large sums of money for medical care and treatment and will continue to do so in the future; has suffered great physical pain and mental anguish and will do so in the future; has been rendered disabled and unable to attend to his usual and ordinary affairs and will continue to do so in the future.

WHEREFORE, Plaintiff demands judgment in whatever amount to which he is found to be entitled, together with costs, interest and attorney fees.

Respectfully submitted,

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PLLC

s/George T. Fishback
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Dated: May 17, 2021

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JURY DEMAND

Plaintiff, George Petkovic, through his attorney, hereby demands a trial
by jury of the issues in the above-entitled cause.

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Dated: May 17, 2021